

603 KAR 9:010. Railroad crossing closure procedure.

RELATES TO: KRS 177.120-177.130

STATUTORY AUTHORITY: KRS 177.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.120 requires the Transportation Cabinet to promulgate administrative regulations that contain standards governing the closure of public railway/highway grade crossings. This administrative regulation sets forth procedures the Transportation Cabinet shall follow regarding the production of a list of railroad crossings which shall be considered for closure, the evaluation of the candidate list with respect to possible closure, and the ultimate decision to recommend closure. KRS 177.120 considers that public safety will be enhanced by the closure of redundant and inherently dangerous crossings.

Section 1. Candidate Lists. (1) The Transportation Cabinet shall compose a list of candidate railroad crossings for possible closure or other appropriate action drawn from the following sources:

- (a) Responses to a letter sent to each county or local government in the Commonwealth through which railroad rights-of-way pass requesting a list of railroad crossings suggested for closure;
- (b) Responses to a letter sent to each railroad company operating in the Commonwealth requesting a list of railroad crossings suggested for closure;
- (c) Recommendations from other public or private agencies or individuals; and
- (d) Railroad crossings which the Transportation Cabinet considers candidates for closure.

(2) The Transportation Cabinet may consider any railroad crossing as a candidate for closure when:

- (a) An alternate railroad crossing is available within one-quarter (1/4) track mile in urban areas and the railroad crossing has a current average daily traffic count of 500 vehicles or less;
- (b) An alternate railroad crossing is available within one (1) track mile in rural areas and the railroad crossing has a current average daily traffic count of 150 vehicles or less; or
- (c) The railroad crossing has sight distance obstructions or other layout characteristics which create unsafe conditions and closure of the railroad crossing is an economically preferable alternative to correcting the deficiencies at the site, and an alternate crossing is available as required in paragraphs (a) and (b) of this subsection.

(3) The Transportation Cabinet shall consider action other than closure when the conditions set forth in subsection (2)(c) of this section are not met at a particular crossing, but when there are unusual safety concerns about the crossing.

Section 2. Evaluation. (1) The Transportation Cabinet's recommendation regarding a candidate railroad crossing shall include one (1) or more of the following factors:

- (a) Highway traffic flow through the railroad crossing;
- (b) Highway operating speeds through the railroad crossing;
- (c) Train traffic through the railroad crossing;
- (d) Train speed through the railroad crossing;
- (e) Character, function and type of highway traffic through the railroad crossing;
- (f) The necessity of the crossing for provision of emergency services;
- (g) Accident history at the railroad crossing for the past five (5) years;
- (h) Railroad crossing geometry including sight distance, acute crossing angle, high profile;
- (i) Type of warning device currently in place at the railroad crossing;
- (j) Condition of alternate railroad crossing surface;
- (k) Condition of alternate railroad crossing;
- (l) Distance and time to alternate railroad crossing;
- (m) Character of adjacent road network;

- (n) Reasonable access to public and private lands;
- (o) Use of the railroad crossing by pedestrians and bicycles;
- (p) Frequency of roadway blockage by trains;
- (q) Community impacts of train whistle;
- (r) Economic importance of the railroad crossing;
- (s) Development projections in the vicinity of the railroad crossing; or
- (t) Funding availability, or potential availability, for action other than closure.

(2)(a) The Transportation Cabinet may consider a number of railroad crossings as a group in evaluating the merits of closing a given railroad crossing. If many railroad crossings of a rail line exist close together, the cabinet may recommend that one (1) or more of the railroad crossings be closed, subject to other evaluation criteria.

(b) The Transportation Cabinet may perform or recommend the performance of a traffic study of the road network in the vicinity of a railroad crossing being considered for closure to analyze the effect of the closure on users of the railroad crossing and on local traffic flow.

(c) The Transportation Cabinet may evaluate a railroad crossing in terms of its economic costs and benefits, considering:

- 1. The railroad crossing's effects on highway and rail operations safety;
- 2. Changes in highway capital and maintenance costs due to closure;
- 3. Effects on local business operations and property values, either positive or negative;
- 4. Effects on rail and highway vehicle operating costs due to closure; or
- 5. Any other effect which may have economic impact.

Section 3. Data Verification. If the evaluation performed pursuant to Section 2 of this administrative regulation indicates that a railroad crossing is a candidate for closure, the Transportation Cabinet shall:

- (1) Provide notification to the jurisdictional local government unit and appropriate railroad company of the potential for closure of the crossing;
- (2) Verify elements of its information file which are critical to accurate evaluation of the particular railroad crossing. This verification shall, as available, consist of the following:
 - (a) Collection of updated information from local officials;
 - (b) Collection of updated information from officials of the affected railroad company; and
 - (c) Field data collection activities such as updated traffic counts at the railroad crossing.

Section 4. Public Input. (1) If based on the evaluation results of Sections 2 and 3 of this administrative regulation the Transportation Cabinet reaches a preliminary decision to recommend closure of a railroad crossing, the Transportation Cabinet may conduct public information meetings regarding the proposed railroad crossing closure in the region affected by the proposed closure.

(2) If a hearing is requested as specified in KRS 177.120(3), the Transportation Cabinet shall hold a public comment hearing in accordance with 600 KAR 1:030.

(3) The Transportation Cabinet Secretary's decision following the public hearing shall be based on the evaluation performed and information obtained in Sections 2 and 3 of this administrative regulation, subject to new information acquired through the public information and hearing process.

Section 5. Official Order. (1) If the Transportation Cabinet's final decision is to close the candidate railroad crossing, the secretary shall issue an official order to that effect.

(2) The official order shall have an effective date far enough in advance of its issuance to allow the local government unit having jurisdiction to comply with the requirements of KRS 178.050.

(3) After the issuance of the official order by the secretary:

- (a) The railroad involved shall physically remove the crossing from the tracks; and

(b) The entity maintaining the highway shall:

1. Remove or barricade the approaches to the crossing; or
2. Sign the approaches in accordance with the requirements of 603 KAR 5:050.

Section 6. Local Closures. The Transportation Cabinet's railroad crossing closure program, as mandated by KRS 177.120, shall not preclude local officials and railroad companies from pursuing railroad crossing closure agreements independent of the cabinet's program. (19 Ky.R. 2757; 20 Ky.R. 307; eff. 8-3-1993; 2673; eff. 5-18-1994; 21 Ky.R. 2239; 3025; eff. 6-1-1995; Crt eff. 3-11-2019.)